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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 524 OF 2006

Kashinath Dada Phadatare ... Appellant

V/s

Dattatraya Laxman Karkhanis & anr. ... Respondents

Ms. Nisha N. Velani for the appellant.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 27TH JULY, 2007.

P.C.:

1. The suit filed by the plaintiff claiming title to the suit property and possession has been dismissed. Initially the suit was filed claiming that the appellant was a tenant of the suit property from the tillers day i.e. 1.4.1957 and as a deemed purchaser had become the owner of the suit property. The plaintiff later amended the plaint contending that he was in adverse possession of the suit property. Both the courts below have held that the plaintiff could not prove his title to the suit property nor that he was entitled to the suit property by adverse possession.

2. The learned advocate for the appellant plaintiff

submits that the respondent did not enter the witness box and, therefore, the suit ought to have been decreed. The Trial Court has aptly held that the burden to prove adverse possession is squarely on the plaintiff or the person who claims to be in adverse possession. No error has been committed by both the Courts below. These are concurrent findings of fact which require no interference.

3. The appeal does not raise any substantial question of law.

4. Appeal dismissed.

5. In view of dismissal of the second appeal, Civil Application No. 755 of 2006 does not surrive and stands dismissed.

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